

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS  
EAST ST. LOUIS DIVISION

BAKUL DAVE,

Plaintiff,

V.

Case No. 18-cv-2122-GCS

BOARD OF TRUSTEES OF SOUTHERN  
ILLINOIS UNIVERSITY, CARBONDALE,

Defendant.

## Motion to Withdraw as Counsel

Now comes the undersigned counsel of record, John A. Baker, and respectfully requests that this Court enter an order allowing him to withdraw as counsel for the Plaintiff, Bakul Dave. In support of this motion the undersigned states as follows:

1. The undersigned has represented the Plaintiff throughout these proceedings. During the pendency of the proceedings there have been disputes regarding a number of issues that have occurred between the undersigned and the Plaintiff. Those issues have largely been worked through.
2. On Tuesday, July 13, 2021, the deposition of the Plaintiff was taken in the offices of counsel for the Defendant. The deposition commenced at approximately 10:00 a.m. and concluded at approximately 12:45 p.m.
3. During the deposition there were a series of questions asked of the Plaintiff that inquired as to his attempts to seek employment after his termination from the Defendant. The Plaintiff refused to answer those questions claiming that his refusal to do so was privileged. A short recess was taken where the undersigned and the Plaintiff spoke about the objection. The undersigned explained to Plaintiff that he needed to answer the question. Upon returning to the deposition the Plaintiff again refused to answer the question. On the record the undersigned

was asked by opposing counsel whether the undersigned was making the objection or directing the Plaintiff not to answer and the undersigned indicated that he was directing the Plaintiff to answer the question. The Plaintiff continued to refuse to answer the question that had been posed.

4. During the deposition there were other areas of disagreement between the undersigned and the Plaintiff regarding the Plaintiff's responses to questions.
5. The Plaintiff will not follow the recommendations of the undersigned as it relates to legal claims and his obligations to answer certain questions.
6. The transcript from the deposition has not yet been prepared but it will reflect the dispute outlined in paragraph 3.
7. Legal counsel can properly withdraw from representation of a client if that client will not follow the attorney's legal advice. *Washington v. Sherwin Real Estate, Inc.*, 694 F.2d 1081, 1087 (7th Cir. 1982). In this case the Plaintiff has demonstrated that he will not accept the advice of the undersigned.
8. Opposing counsel has indicated to the undersigned that it intends to file a motion seeking sanctions against Plaintiff related to his refusal to answer questions in his deposition. Should such a motion be filed, the undersigned can not in good faith argue to this Court that the position that was taken at his deposition was legally correct. This creates a further conflict between Plaintiff and the undersigned.
9. As a result of the foregoing there is a conflict between the undersigned and the Plaintiff. The Plaintiff has refused to follow the legal advice of the undersigned and the undersigned can not effectively represent him as a result.
10. The undersigned recognizes that discovery deadlines are about to close in this matter and this could potentially create some prejudice to Plaintiff. That having been said, the undersigned will be filing a separate motion to stay discovery pending a ruling on this motion to withdraw.

Wherefore the undersigned respectfully requests that this Court enter an order allowing him to withdraw from representation of the Plaintiff in this matter.

/s/ John A. Baker

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### **Certificate of Service**

This document was filed utilizing this Court's ECF system. A copy will automatically be served on all counsel of record.

In addition to filing this matter electronically, the undersigned has served a copy electronically upon:

Bakul Dave

[bakul.c.dave@gmail.com](mailto:bakul.c.dave@gmail.com)

/s/ John A. Baker

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